



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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September 19, 2001

CERTIFIED RETURN RECEIPT
7000 0520 0021 7582 9422

Brad B. Boyter, President
Western Clay Company Inc
P.O. Box 127
Aurora, Utah 84620

Re: **Notice of Non-Compliance**, Western Clay Company Inc., Bentonite Mine, M/041/012,
Sevier County, Utah

Dear Mr. Boyter:

This letter provides formal notice that mining operations at the Bentonite Mine (M/041/012), located in Sevier County, Utah, are being conducted in violation of the Utah Mined Land Reclamation Act, 40-801 et.seq. (Act) and the Minerals Reclamation Program Rules, sections R647-1 through R647-5.

On June 15, 2001, the Division received updated permit information from Western Clay Company regarding the Bentonite Mine (Red Pit). The information was provided in response to the Division's February 21, 2001, 5-year surety estimate review request. A site inspection was performed on June 19, 2001, which confirmed that large mining operations have been conducted outside of the approved 8.5 acre permit area. New certified maps received from Western Clay, outline a total mine disturbance of 33.24 acres. The maps show an additional three pits that have been developed outside of the approved permit area.

Findings of Non-Compliance

1. Western Clay Company has expanded their mining operations by an additional 24.74 acres of surface disturbance. Rule R647-4-118 requires an operator to file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV), post adequate reclamation surety and receive Division approval of the revised permit application before creating any new mine disturbance. To date, Western Clay has failed to file an application to revise the approved Notice of Intention to include this additional disturbance.
2. Rule R647-4-113 requires an operator to post surety with the Division to ensure adequate reclamation is performed, before mining-related disturbances are created. To date, Western

Clay Company has not filed adequate reclamation surety to cover the additional 24.74 acres of new surface disturbance.

The present \$17,600 reclamation surety, was calculated in 1986 to reclaim the 8.5 acres of mining related disturbance at the Bentonite Mine. A standard 5-year escalation of this bond has not been performed since 1986. This bond amount, updated to year 2001 dollars, including standard escalation, would be \$21,600 for the approved 8.5 acres (average \$2540/acre).

The additional 24.74 acres of disturbance created by Western Clay is unpermitted and not covered by the present amount of reclamation surety. Reclamation requirements for the new disturbances created by Western Clay, are anticipated to be very similar to the requirements for the original pit site.

Location of Non-Compliance

Disturbances associated with Western Clay Company's Bentonite Mine are located in the SW/4 of section 2, T21S, R1W, SLBM, Sevier County, Utah.

Mitigation Requirements:

1. **Western Clay must post a \$62,800 (\$2540 X 24.74 acres) *transitional* reclamation surety within 60 days of its receipt of this letter.** This *transitional* surety will remain in place until a permit revision updating the original mining and reclamation plan is submitted and approved. The surety amount will be adjusted accordingly upon Division approval of the permit revision application.
2. Western Clay must file a Notice of Intention to Revise Large Mining Operations (FORM MR-RV) to modify the approved large mine permit to include this additional acreage, within 90 days of its receipt of this letter.
3. Until the *transitional* surety is posted and the permit revision is approved, **Western Clay must restrict its mining operations to the current disturbed area footprint. The boundary of this 33.24 acre area must be marked with metal T-posts, or other appropriate markers, to ensure that operations are not conducted outside of the current disturbed area.** The markers must be placed so they can be seen in either direction with the naked eye. **The markers must be installed within 30 days of your receipt of this notice.**

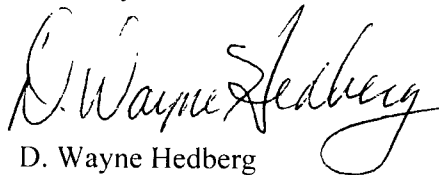
You may have your existing surety company post a rider to increase the current reclamation surety bond amount, or post another form of *transitional* surety and a transitional Reclamation Contract. If you choose to post a different form of reclamation surety, please contact Joelle Burns at (801) 538-5291 to obtain the proper forms for filing this alternate form of surety.

Penalties for Failure to Comply

1. Western Clay's failure to resolve this Notice of Non-compliance within the timeframes set forth in this letter will result in the filing of a formal Notice of Agency Action. This enforcement action could require the operator to appear at an informal hearing before the Division Director, or a formal hearing before the Board of Oil, Gas and Mining. Following public notice and formal hearing, the Board may issue an abatement or compliance Order which may require: immediate suspension or termination of all mining operations until the revised plan is approved; revocation of the existing permit and immediate reclamation of the site; and/or other lawful requirements as authorized under the Act.
2. The Board may also ask the County prosecutor or attorney general to bring suit against the operator to enforce its Orders and to seek assessment of appropriate penalties, not to exceed \$10,000 for each knowing or willful violation of the Act.

If you have any questions regarding the requirements of this letter, please contact me at (801) 538-5286, or Doug Jensen at 538-5382. Thank you for your immediate attention to this matter.

Sincerely,



D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

jb
cc: John Blake, SITLA
Mary Ann Wright, Associate Director
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